premises and there carried on the business of general butcher, from continuing which the plaintiff sought to enjoin him. *Held*, that the defendant be enjoined. *Wilkes* v. *Spooner*, 27 T. L. R. 157 (Eng., K. B. D., Dec. 16, 1910). See NOTES, p. 574.

RULE AGAINST PERPETUITIES — POWERS — VALIDITY OF POWER WHEN AN APPOINTMENT UNDER IT OF A TRANSMISSIBLE INTEREST WOULD BE TOO REMOTE. — A testator left personalty in trust for A for life, then for A's husband for life, and after the decease of A and of any husband with whom she might intermarry having any issue of A, for such of A's issue as A should by deed or will appoint, and in default of appointment for A's children then living. After A's first husband had died, A made an absolute appointment by deed to her children. *Held*, that this appointment is void for remoteness. *Re Norton*, 103 L. T. Rep. 821 (Eng., Ch. D., Dec. 20, 1910).

A power of appointment given to a living person will generally be good, since it must be exercised in the donee's lifetime. Yet a power to appoint to a class, which may not be ascertained until a period too remote, is bad, for the appointment cannot take effect within the required limits. In the principal case, however, as the objects of the power are the issue of A, the class is not too remote. Yet an appointment of a transmissible interest to any member of the class is necessarily bad; for, reading it into the instrument creating the power, it is a gift which may not vest until the death of a husband of A who was not in being at the testator's death. *Bristow* v. *Boothby*, 2 Sim. & St. 465. It has therefore been suggested that such a power is void. GRAY, RULE AGAINST PERPETUITIES, 2 ed., § 476 a. It would seem, however, to be correctly pointed out in the principal case that the power itself is valid if a lesser interest can be appointed which if read into the original instrument would not have been too remote. An appointment of life estates to issue of A living at the death of the testator would thus be good. But although the class is not too remote, the *dictum* of the court that such an appointment might be made to children of A born after the testator's death seems wrong; for though such interests must vest, if at all, during the lives of the appointees, their vesting might still be too remote from the testator's death.

TAXATION — PARTICULAR FORMS OF TAXATION — FEDERAL TAX ON CORPORATIONS MEASURED BY INCOME. — A federal statute imposed on every corporation organized in, or doing business in, any state of the United States, a special excise tax, with respect to doing business, equivalent to one *per centum* upon its entire net income over and above $5000. *Held*, that the statute is constitutional. *Flint* v. *Stone Tracy Co.*, U. S. Sup. Ct., March 13, 1911. See NOTES, p. 563.

TAXATION — PARTICULAR FORMS OF TAXATION — SUCCESSION TAX WHEN PROPERTY PASSES IN DEFAULT OF APPOINTMENT. — A Massachusetts statute provides that when a person possessing a power of appointment has failed to exercise it, a disposition of property shall be deemed to take place in the same manner as if the person becoming entitled to the property had succeeded thereto by a will of the donee of the power. Before this statute property had been conveyed to trustees to pay the income to A for life and on her death to convey to her appointee by will; in default of such will, to A's heirs at law in fee. A died without exercising the power. A's heirs questioned the constitutionality of the succession tax. *Held*, that the tax is constitutional. *Minot* v. *Stevens*, 93 N. E. 973 (Mass.).

The case is to be supported on the ground that Massachusetts law performs a service on A's death by designating A's heirs at law, and permitting the vesting of the contingent remainder in them as such. The language of the opinion, however, is far broader and asserts the validity of the enactment where the persons entitled in default of appointment hold vested interests.

New York has held such a statute unconstitutional. For a discussion of the principles involved, see 19 HARV. L. REV. 121.

TAXATION — WHERE PROPERTY MAY BE TAXED — BANK DEPOSITS OF NON-RESIDENTS. — A statute provided that every interest-bearing deposit in a national bank in the state should pay a certain tax. Some of the credits were the property of non-residents. *Held*, that these credits are beyond the taxing power of the state. *State* v. *Clement National Bank*, 78 Atl. 944 (Vt.).

It has been frequently held that bank deposits of non-residents are taxable where the bank is situated. Some of these decisions are based on the fact that money subject to call represents wealth as truly as if kept *in specie*. *Matter of Houdayer*, 150 N. Y. 37. The same result, however, was reached when notice of withdrawal of funds was necessary. *Blackstone* v. *Miller*, 188 U. S. 189. The ground of other decisions is that the debt is incident to a business there carried on, and this reasoning is not confined to bank deposits. *Bluefields Banana Co.* v. *Board of Assessors*, 49 La. Ann. 43; *Metropolitan Life Ins. Co.* v. *New Orleans*, 205 U. S. 395. Moreover, the Supreme Court has broadly asserted that power over the person of the debtor confers taxing power over the debt, not from any theory as to the *situs* of the debt but because that jurisdiction is depended upon to enforce the right. *Blackstone* v. *Miller*, *supra*. This doctrine has been applied to demand loans to stockbrokers, but is scarcely applicable to deposits only temporarily in the state. *Matter of Daly*, 100 N. Y. App. Div. 373. See *Orleans Parish* v. *New York Life Ins. Co.*, 216 U. S. 517, 523. The principal case, though against the present weight of authority, follows an old *dictum* of the United States Supreme Court. See *State Tax on Foreign-held Bonds*, 15 Wall. (U. S.) 300. See also 15 HARV. L. REV. 680; 20 HARV. L. REV. 656.

TAXATION — WHERE PROPERTY MAY BE TAXED — SUCCESSION TAX ON FOREIGN PERSONALTY. — A testator left personal property in New York and California. The California court administered the California property according to that law, holding that the testator was domiciled there. Later, administration proceedings were instituted in New York when it was determined that the testator was domiciled there. *Held*, that the California personalty is subject to a New York inheritance tax. *In re Cummings' Estate*, 127 N. Y. Supp. 109 (Sup. Ct., App. Div.). See NOTES, p. 573.

WATERS AND WATERCOURSES — NATURAL WATERCOURSES: RIPARIAN RIGHTS — RIGHT OF ACCESS TO WHARF ON TIDAL RIVER. — The defendant's wharf, extending out to deep water in a tidal river, was erected solely on land granted to the defendant in fee by the state. The arms of a drawbridge belonging to the plaintiff railroad could not be swung open when any vessel lay alongside the defendant's wharf. The plaintiff sought to enjoin the defendant from thus interfering with the opening and closing of the drawbridge. *Held*, that the injunction be denied. *Northern Pac. Ry. Co.* v. *Slade Lumber Co.*, 112 Pac. 240 (Wash.).

In Washington a riparian owner has no right of access to navigable water. *Eisenbach* v. *Hatfield*, 2 Wash. 236. This is against the weight of authority. *Lyon* v. *Fishmongers' Co.*, 1 App. Cas. 662; *Yates* v. *Milwaukee*, 10 Wall. (U. S.) 497. But see *Stevens* v. *Paterson & Newark R. Co.*, 34 N. J. L. 532. The reasoning is that, since the state has title to the tide lands, an abutting upland owner has no greater rights over those lands than over any other land. *Bowlby* v. *Shively*, 22 Or. 410. See 1 WOOD, NUISANCES, 3 ed., § 468. But the state has not such an unqualified ownership. See 1 LEWIS, EMINENT DOMAIN, 3 ed., § 95. For the fact that another has title to the tide lands does not destroy the right of access over them, or even a right of wharfing out. *Mobile Transportation Co.* v. *City of Mobile*, 153 Ala. 409. An abutting owner's right of access to a street owned in fee by the city affords an analogy. *Kane* v. *New York Ele-*